



U.S. Department of Justice

United States Attorney

Eastern District of Pennsylvania

615 Chestnut Street

Suite 1250

Philadelphia, Pennsylvania 19106-4476

(215) 861-8200

FOR IMMEDIATE RELEASE

December 8, 2009

FIVE INDICTED IN FORECLOSURE RESCUE AND MORTGAGE FRAUD SCHEME

Scam involved lawyers, mortgage brokers and more than \$14.6 million in loans

PHILADELPHIA – A 15-count indictment¹ was filed today against five defendants charged in a \$14.6 million mortgage fraud scheme that resulted in at least 35 fraudulent mortgage loans, announced United States Attorney Michael L. Levy, Special Agent-in-Charge of the FBI Janice K. Fedarcyk, and Pennsylvania Secretary of Banking Steven Kaplan. Charged are Edward G. McCusker and John Alford Bariana, owners of Axxium Mortgage, Inc., McCusker’s wife, Jacqueline, and Jeffrey A. Bennett and Stephen G. Doherty, owners of the Doylestown law firm Bennett & Doherty, P.C.

According to the indictment, the defendants targeted financially distressed homeowners facing foreclosure, falsely promised them help in saving their homes, engaged in real estate transactions with straw purchasers, and obtained dozens of fraudulent mortgages. The defendants took whatever equity the homeowner had left, funneled it through various shell corporations they controlled, used some of it to pay the new mortgages, and put the rest of the equity into their own bank accounts.

“Unfortunately, the downturn in the economy has given rise to unscrupulous predators looking to cash in on the misfortune of others,” said Levy. “This sort of fraudulent activity not only preys on desperate homeowners, it weakens our financial institutions, destroys neighborhoods by leaving properties abandoned, and devalues the homes of innocent neighbors. This office will investigate and prosecute those who victimize financially distressed homeowners.”

The indictment alleges that the defendants promised financially distressed homeowners that they would find an “investor” who would help them save their home. The defendants would then arrange for a straw purchaser to obtain a fraudulent mortgage and then transfer of the title of the homeowner’s residence to the straw purchaser. Using their company Axxium Mortgage, Edward McCusker and Bariana, along with Jacqueline McCusker obtained the fraudulent mortgages by submitting false documents to mortgage lenders and making false claims about the straw purchasers’ finances. The defendants also concealed from the lender the fact that the homeowner was going to continue to reside in the home and that the mortgage payments were going to continue to be made, in part, by the distressed homeowner and funneled through the straw purchaser. Bariana and Jacqueline McCusker

¹An Indictment is an accusation. A defendant is presumed innocent unless and until proven guilty.

December 8, 2009

Page 2

each acted as straw purchasers for ten homes. The defendants also recruited at least seven other persons to act as straw owners in order to obtain additional fraudulent mortgages.

Bennett and Doherty participated in the scheme at the front and back end. Doherty solicited and referred distressed homeowners to Edward McCusker, and used fraudulent bankruptcy filings for some of the distressed homeowners to delay foreclosure until McCusker had obtained an investor and a mortgage. Bennett handled the closings for the real estate transfers, manipulating the information provided to the lender in order to hide the nature of the scheme until after the loan was funded.

“Governor Rendell and I are pleased when state and federal agencies can cooperate to protect consumers and deter improper and criminal activity,” said Pennsylvania Secretary of Banking Steve Kaplan. “U.S. Attorney Levy’s announcement today helps underscore our respective commitments to consumer protection and the Department of Banking’s ability to bring financial expertise to criminal prosecutions.”

“The type of criminal activity alleged in this indictment is particularly despicable in that it targeted those victims who were the most vulnerable financially and the most desperate for some type of assistance to avoid foreclosure on their properties,” said Special Agent-in-Charge Janice K. Fedarcyk of the Philadelphia Division of the FBI. “It also represents an affront to the millions of hard-working Americans who struggle every day to meet their mortgage obligations and keep their families in their homes. The FBI is committed to aggressively pursuing those who engage in schemes designed to illegally profit from the current economic situation of many of our fellow Americans.”

The defendants are charged with conspiracy to commit mail and wire fraud, mail and wire fraud, and conspiracy to commit money laundering. Doherty is also charged with bankruptcy fraud.

INFORMATION REGARDING THE DEFENDANTS

NAME	ADDRESS	YEAR OF BIRTH
EDWARD G. MCCUSKER	New Hope, PA	1964
JEFFREY A. BENNETT	Springfield, PA	1966
STEPHEN G. DOHERTY	Doylestown, PA	1966
JOHN A. BARIANA	Mullica Hill, NJ	1972
JACQUELINE D. MCCUSKER	New Hope, PA	1964

December 8, 2009

Page 3

Defendants Edward and Jacqueline McCusker, Jeffrey Bennett, and John Bariana face maximum sentences of 240 years imprisonment, \$3.25 million in fines, three years supervised release, and a \$1,200 special assessment. Defendant Stephen Doherty faces a maximum sentence of 385 years imprisonment, \$4 million in fines, three years supervised release, and a \$1,500 special assessment. These are the maximum sentences that may be imposed if the defendants are convicted; the advisory United States Sentencing Guidelines call for a sentence less than the statutory maximum.

The indictment seeks forfeiture of the proceeds of the fraudulent scheme, which is alleged to be approximately \$14.6 million.

This case was investigated by the Federal Bureau of Investigation and the Pennsylvania Department of Banking. It is being prosecuted by Assistant United States Attorney Nancy Rue.

**UNITED STATES ATTORNEY'S OFFICE
EASTERN DISTRICT, PENNSYLVANIA
Suite 1250, 615 Chestnut Street
Philadelphia, PA 19106**

**Contact: PATTY HARTMAN
Media Contact
215-861-8525**

*COPIES OF NEWS MEMOS AND RELATED DOCUMENTS CAN ALSO BE FOUND AT
<http://www.usdoj.gov/usao/pae>*